

PATENT COOPERATION TREATY

PCT

INTERNATIONAL PRELIMINARY REPORT ON PATENTABILITY (Chapter II of the Patent Cooperation Treaty)

(PCT Article 36 and Rule 70)

REC'D 27 MAR 2006

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Applicant's or agent's file reference 030352WO	FOR FURTHER ACTION	See Form PCT/IPEA/416																								
International application No. PCT/US04/36128	International filing date (day/month/year) 28 October 2004 (28.10.2004)	Priority date (day/month/year) 03 November 2003 (03.11.2003)																								
International Patent Classification (IPC) or national classification and IPC IPC: H04Q 7/00 (2006.01); H04L 12/56 (2006.01); H04J 3/12 (2006.01) H04B 17/00 (2006.01) USPC: 370/328,389,527																										
Applicant QUALCOMM INCORPORATED																										
<p>1. This report is the international preliminary examination report, established by this International Preliminary Examining Authority under Article 35 and transmitted to the applicant according to Article 36.</p> <p>2. This REPORT consists of a total of <u>3</u> sheets, including this cover sheet.</p> <p>3. This report is also accompanied by ANNEXES, comprising:</p> <p style="margin-left: 20px;">a. <input type="checkbox"/> (sent to the applicant and to the International Bureau) a total of ___ sheets, as follows:</p> <p style="margin-left: 40px;"><input type="checkbox"/> sheets of the description, claims and/or drawings which have been amended and are the basis of this report and/or sheets containing rectifications authorized by this Authority (see Rule 70.16 and Section 607 of the Administrative Instructions).</p> <p style="margin-left: 40px;"><input type="checkbox"/> sheets which supersede earlier sheets, but which this Authority considers contain an amendment that goes beyond the disclosure in the international application as filed, as indicated in item 4 of Box No. I and the Supplemental Box.</p> <p style="margin-left: 20px;">b. <input type="checkbox"/> (sent to the International Bureau only) a total of (indicate type and number of electronic carrier(s)) _____, containing a sequence listing and/or tables related thereto, in electronic form only, as indicated in the Supplemental Box Relating to Sequence Listing (see Section 802 of the Administrative Instructions).</p>																										
<p>4. This report contains indications relating to the following items:</p> <table style="width: 100%; border: none;"> <tr> <td style="width: 10%;"><input checked="" type="checkbox"/></td> <td style="width: 20%;">Box No. I</td> <td>Basis of the report</td> </tr> <tr> <td><input type="checkbox"/></td> <td>Box No. II</td> <td>Priority</td> </tr> <tr> <td><input type="checkbox"/></td> <td>Box No. III</td> <td>Non-establishment of opinion with regard to novelty, inventive step and industrial applicability</td> </tr> <tr> <td><input type="checkbox"/></td> <td>Box No. IV</td> <td>Lack of unity of invention</td> </tr> <tr> <td><input checked="" type="checkbox"/></td> <td>Box No. V</td> <td>Reasoned statement under Article 35(2) with regard to novelty, inventive step or industrial applicability; citations and explanations supporting such statement</td> </tr> <tr> <td><input type="checkbox"/></td> <td>Box No. VI</td> <td>Certain documents cited</td> </tr> <tr> <td><input type="checkbox"/></td> <td>Box No. VII</td> <td>Certain defects in the international application</td> </tr> <tr> <td><input type="checkbox"/></td> <td>Box No. VIII</td> <td>Certain observations on the international application</td> </tr> </table>			<input checked="" type="checkbox"/>	Box No. I	Basis of the report	<input type="checkbox"/>	Box No. II	Priority	<input type="checkbox"/>	Box No. III	Non-establishment of opinion with regard to novelty, inventive step and industrial applicability	<input type="checkbox"/>	Box No. IV	Lack of unity of invention	<input checked="" type="checkbox"/>	Box No. V	Reasoned statement under Article 35(2) with regard to novelty, inventive step or industrial applicability; citations and explanations supporting such statement	<input type="checkbox"/>	Box No. VI	Certain documents cited	<input type="checkbox"/>	Box No. VII	Certain defects in the international application	<input type="checkbox"/>	Box No. VIII	Certain observations on the international application
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Date of submission of the demand 26 May 2005 (26.05.2005)	Date of completion of this report 01 March 2006 (01.03.2006)																									
Name and mailing address of the IPEA/ US Mail Stop PCT, Attn: IPEA/US Commissioner for Patents P.O. Box 1450 Alexandria, Virginia 22313-1450 Facsimile No. (571) 273-3201	Authorized officer Ricky Ngo Telephone No. 703-300-0577																									

INTERNATIONAL PRELIMINARY REPORT ON PATENTABILITY

International application No.

PCT/US04/36128

Box No. I Basis of the report

1. With regard to the **language**, this report is based on:

- ☒ the international application in the language in which it was filed.
- ☐ a translation of the international application into English, which is the language of a translation furnished for the purposes of:
- ☐ international search (under Rules 12.3 and 23.1(b))
- ☐ publication of the international application (under Rule 12.4(a))
- ☐ international preliminary examination (under Rules 55.2(a) and/or 55.3(a))

2. With regard to the **elements** of the international application, this report is based on (*replacement sheets which have been furnished to the receiving Office in response to an invitation under Article 14 are referred to in this report as "originally filed" and are not annexed to this report*):

- ☒ the international application as originally filed/furnished
- ☒ the description:
 pages 1-24 as originally filed/furnished
 pages* NONE received by this Authority on _____
 pages* NONE received by this Authority on _____
- ☒ the claims:
 pages 25-32 as originally filed/furnished
 pages* NONE as amended (together with any statement) under Article 19
 pages* NONE received by this Authority on _____
 pages* NONE received by this Authority on _____
- ☒ the drawings:
 pages 1-12 as originally filed/furnished
 pages* NONE received by this Authority on _____
 pages* NONE received by this Authority on _____
- ☐ a sequence listing and/or any related table(s) - see Supplemental Box Relating to Sequence Listing.

3. ☐ The amendments have resulted in the cancellation of:

- ☐ the description, pages _____
- ☐ the claims, Nos. _____
- ☐ the drawings, sheets/figs _____
- ☐ the sequence listing (*specify*): _____
- ☐ any table(s) related to the sequence listing (*specify*): _____

4. ☐ This report has been established as if (some of) the amendments annexed to this report and listed below had not been made, since they have been considered to go beyond the disclosure as filed, as indicated in the Supplemental Box (Rule 70.2(c)).

- ☐ the description, pages _____
- ☐ the claims, Nos. _____
- ☐ the drawings, sheets/figs _____
- ☐ the sequence listing (*specify*): _____
- ☐ any table(s) related to the sequence listing (*specify*): _____

* If item 4 applies, some or all of those sheets may be marked "superseded."

INTERNATIONAL PRELIMINARY REPORT ON PATENTABILITY

International application No.
PCT/US04/36128**Box No. V Reasoned statement under Article 35(2) with regard to novelty, inventive step or industrial applicability; citations and explanations supporting such statement****1. Statement**

Novelty (N)	Claims <u>1-50</u>	YES
	Claims <u>NONE</u>	NO
Inventive Step (IS)	Claims <u>1-50</u>	YES
	Claims <u>NONE</u>	NO
Industrial Applicability (IA)	Claims <u>1-50</u>	YES
	Claims <u>NONE</u>	NO

2. Citations and Explanations (Rule 70.7)

1. Claims 1-50 meet the criteria set out in PCT Article 33(2)-(3), because the prior art does not teach or fairly suggest carrying signaling information for a first user in a first packet and data information for the first user the second packet as recited in independent claim 1. The same reasoning applies to the subject-matter of the corresponding independent claims 11, 21, 25, 30, 34, 40, 46, and 49, which therefore are also considered new and inventive. Claims 2-10, 12-20, 22-24, 26-29, 31-33, 35-39, 41-45, 47, 48, and 50 are dependent claims and as such also meet the requirement of the PCT with respect to novelty and inventive step.

2. Although claims 1, 11, 21, 34, and 40 have been drafted as separate independent claims, they appear to relate effectively to the same subject-matter and to differ from each other only with regard to the definition of the subject-matter for which protection is sought and in respect of the terminology used for the features of that subject-matter. The aforementioned claims therefore lack conciseness and as such do not meet the requirements of Article 6 PCT.

3. It is clear from the description on pages 22 and 22 that the following features are essential to the definition of the invention: the packet at the lowest level in the superimposed packets comprises application information for a first user station having the lowest level signal quality in the set and control information for another user station or for other user stations in the set.

Since independent claims 34 and 40 do not contain this feature they do not meet the requirement following from Article 6 PCT taken in combination with Rule 6.3(b) PCT that any independent claim must contain all the technical features essential to the definition of the invention.

4. Claims 1-50 meet the criteria set out in PCT Article 33(4), and thus meet industrial applicability because the subject matter claimed can be made or used in industry.

----- NEW CITATIONS -----

NONE